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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/459,141	06/02/95	BERMAN	P P0233C6

TIMOTHY E TORCHIA  
GENENTECH INC  
460 POINT SAN BRUNO BOULEVARD  
SOUTH SAN FRANCISCO CA 94080-4990

HM22/0122

EXAMINER

NELSON, B

ART UNIT	PAPER NUMBER
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1648

*22*

DATE MAILED: 01/22/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

**NOTICE OF ALLOWANCE AND ISSUE FEE DUE**

HM22/0122

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GENENTECH INC  
460 POINT SAN BRUNO BOULEVARD  
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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/459,141	06/02/95	015	NELSON, B	1648 01/22/99
First Named Applicant	BERMAN,	35 USC 154(b) term ext. = 0 Days.		

TITLE OF INVENTION VACCINES BASED ON MEMBRANE BOUND PROTEINS AND PROCESS FOR MAKING THEM

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1 P023306	424-229.100	020	UTILITY	NO	\$1210.00	04/22/99

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.  
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

If the SMALL ENTITY is shown as NO:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

A. Pay FEE DUE shown above, or

B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.  
Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

**PATENT AND TRADEMARK OFFICE COPY**

# Notice of Allowability

Application No.

08/459,141

Applicant(s)

Phillip Berman

Examiner

Brett Nelson

Group Art Unit

1648



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to Jan. 7, 1998

☒ The allowed claim(s) is/are 10-24 renumbered to 1-4, 10-15 and 5-9 respectively

☐ The drawings filed on \_\_\_\_\_ are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☒ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☒ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 4.

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

Art Unit: 1648

### EXAMINER'S AMENDMENT

1. The examiner acknowledges receipt of the amendment filed Jan. 7, 1998<sup>9</sup> adding claim 24. Claims 10-24 are pending and renumbered to claims 1-4, 10-15 and 5-9 respectively for allowance. Upon further consideration by the examiner and in view of the amendments to the claims, applicant's arguments, and the filing of the Terminal Disclaimers all previous rejections are withdrawn.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. The application has been amended as follows:

After the claims please add:

### ABSTRACT

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- ④ Disclosed is an invention related to the preparation and use of vaccines against pathogenic organisms, such as herpes virus. The vaccines hereof are based upon the use of truncated, membrane-free derivatives of a membrane-bound polypeptide from the pathogen. These polypeptides when incorporated into a vaccine composition afford protection against pathogenic challenge after administration.
- 65

Art Unit: 1648

### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance: Upon further review of the related prior art and in view of Applicant's arguments, amendments to the claims, and the Terminal Disclaimers it is determined that the closest related prior art neither teaches nor suggests the claimed method and herpes vaccine which comprises the recited truncated, membrane-free derivatives of a membrane-bound polypeptide.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Examiner Brett Nelson, Art Unit 1648 and should be marked "OFFICIAL" for entry into prosecution history or "DRAFT" for consideration by the examiner without entry. The Art Unit 1648 FAX telephone number is (703)308-4426. FAX machines will be available to receive transmissions 24 hours a day. In compliance with 1096 OG 30, the filing date accorded to each OFFICIAL fax transmission will be determined by the FAX machine's stamped date found on the last page of the transmission, unless that date is a Saturday, Sunday or Federal Holiday with the District of Columbia, in which case the OFFICIAL date of receipt will be the next business day.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Brett Nelson whose telephone number is (703) 306-3219.

If the examiner can not be reached, inquiries can be directed to Supervisory Patent Examiner Chris Eisenschenk whose telephone number is (703) 308-0452.


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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

NELSON/bn f  
January 13, 1999

  
FRANK C. EISENSCHENK  
PRIMARY EXAMINER  
GROUP 1800  
1/15/99